

## REMARKS

This paper is filed in response to the final Office Action mailed July 30, 2008. Presently, Claims 1-17 and 19-30 are pending in the application. Of these, Claims 4-14, 21, and 22 are withdrawn from consideration. Claims 24-26 and 29 are allowed. Claims 2, 3, 15, 16, and 20 are objected to. Claims 1, 17, 19, 23, 27, 28, and 30 are rejected. Reconsideration of Claims 1, 17, 19, 23, 27, 28, and 30, and consideration of new Claims 31-39 is respectfully requested.

The Rejection of Claims 1, 17, 19, 23, 27, 28, and 30 Under 35 U.S.C. § 102(b) or 35 U.S.C. § 103(a)

Claims 1, 17, 19, 23, 27, 28, and 30 are rejected under 35 U.S.C. § 102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over U.S. Patent Application Publication No. 20010009320 (Couderc et al.).

Claim 1 has been amended to recite the toe strap including a first end connected forward and on a lateral side of the binding system, and a second end connected forward and on a medial side of the binding system, and the ankle strap including a first end connected other than forward and on a lateral side of the binding system, and a second end connected other than forward and on a medial side of the binding system. Claims 17 and 19 share similar elements.

All embodiments of bindings disclosed by Couderc et al. disclose connections at three locations. Couderc et al. discloses and claims a device for retaining a boot having two or more points for fastening to a first of two lateral edges and *a single point for fastening to a second of the two lateral edges*. Accordingly, Couderc et al. does not anticipate the claimed invention.

Furthermore, the modification of Couderc et al. into applicant's claimed device is not obvious. Enclosed with this response are exhibits A and B in support of nonobviousness.

Exhibit A is page 134 of the October 2007 issue of *Snowboard Magazine*. This page shows a binding system comprising a toe strap for securing the forward portion of a boot, the toe

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strap including a first end connected forward and on a lateral side of the binding system, and a second end connected forward and on a medial side of the binding system, wherein the toe strap has at least one movable end connected to a linkage to allow the end to travel; an ankle strap for securing the instep portion of the boot, the ankle strap including a first end connected other than forward and on a lateral side of the binding system, and a second end connected other than forward and on a medial side of the binding system, wherein the ankle strap has at least one movable end connected to a linkage to allow the end to travel, wherein the linkages connected to the movable ends of the toe and ankle straps are the same linkage or different linkages connected to one another; and a strap tension-producing fastener located on a first strap being one of either the toe or the ankle strap, wherein the fastener tensions the first strap on which it is located and the linkages cause the other strap to be tensioned when the first strap is tensioned, and when tension on the first strap is released with the fastener, tension on the other strap is released. The binding system that is defined by independent Claims 1, 17, 19 and 38 encompasses the binding system that is shown in Exhibit A.

The *Snowboard Magazine* article recites that its purpose is to select products that stand out and deserve recognition. The article is dedicated to taking a "detailed look at the most unique, forward thinking products on the market." The uniqueness of the binding system is attributed to the lack of a second ratchet. In this respect, the author states: "Attached to the ladder of the heel strap is a cable. That cable runs through the baseplate of the binding via a small channel, some pulleys, past a squirrel and up to the toe strap. Tighten the heel strap, and the toe strap tightens with it. It's like a BOA binding. Simple, but effective." The author's opinion is that the binding system is so simple and effective that he draws a metaphor comparing it to the revolutionary BOA speed lacing system found on many popular snowboard boots. (See

the copy of the webpage [http://www.boatechnology.com//boa.php?section=the\\_boa\\_system](http://www.boatechnology.com//boa.php?section=the_boa_system), downloaded on October 13, 2008, Exhibit C.)

The Examiner is further asked to consider Exhibit B, which is a Press Release communication from ISPO issued on January 17, 2008. ISPO is the primary international sports trade association that organizes trade shows for the sporting goods industry globally. ISPO has been active in the promotion of the winter sports industry for many years. ISPO is an impartial body and, accordingly, the opinions of ISPO are respected throughout the industry. The Press Release recites that in Winter 2007, ISPO introduced Boardsports Awards with the goal of honoring the most innovative products of the Boardsport industry. The Awards were selected by a jury of experts. The winner in the category of Hardgoods was a binding known publicly under the designation as the AUTO EVER binding. The AUTO EVER binding includes binding technology known in the industry as AUTO technology. The Examiner is asked to note that the article of Exhibit A identifies the binding as the "K2 Auto Binding," and, further, the markings on the binding have the designation "Auto." Therefore, the binding shown in Exhibit A and the binding that earned the award of Exhibit B share the same binding technology. Such binding technology is encompassed by Claims 1, 17, 19, and 38 of the present application. Referring to Exhibit B again, ISPO gave AUTO technology as a reason, in part, for the award.

Applicant submits Exhibits A, B, and C in support of nonobviousness. Exhibits A and B are evidence of nonobviousness because each demonstrates that experts in the snowsports field consider Auto technology a notable innovation deserving of recognition. It is clear that the binding technology known under the designation of AUTO, which has been shown to be encompassed by the present Claims 1, 17, 19 and 38, fulfills a long-felt but unsolved need in this field.

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### New Claims

Claims 31-39 are new and recite specific features of the binding system of Claim 1. Claim 38 defines the binding system as comprising a baseplate, wherein the binding system is connected to the baseplate at least at four locations via the ends of the toe strap and ankle strap. Claims 31-39 are submitted to be allowable over Couderc et al.

### The Interview Summary

Applicant's attorney conducted a telephonic interview with the Examiner on September 30, 2008. Applicant's attorney proposed amended claims to overcome the anticipation rejection over Couderc et al. The Examiner stated that the amendment would require further search and consideration. No agreement was reached.

### CONCLUSION

In view of the foregoing amendments and remarks, applicant submits that all claims are allowable. If the Examiner has any further questions or comments, the Examiner may contact the applicant's attorney at the number provided below.

Respectfully submitted,

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LXC:ppw

# **EXHIBIT A**

# Platinum Pick K2 Auto Binding



Written by  
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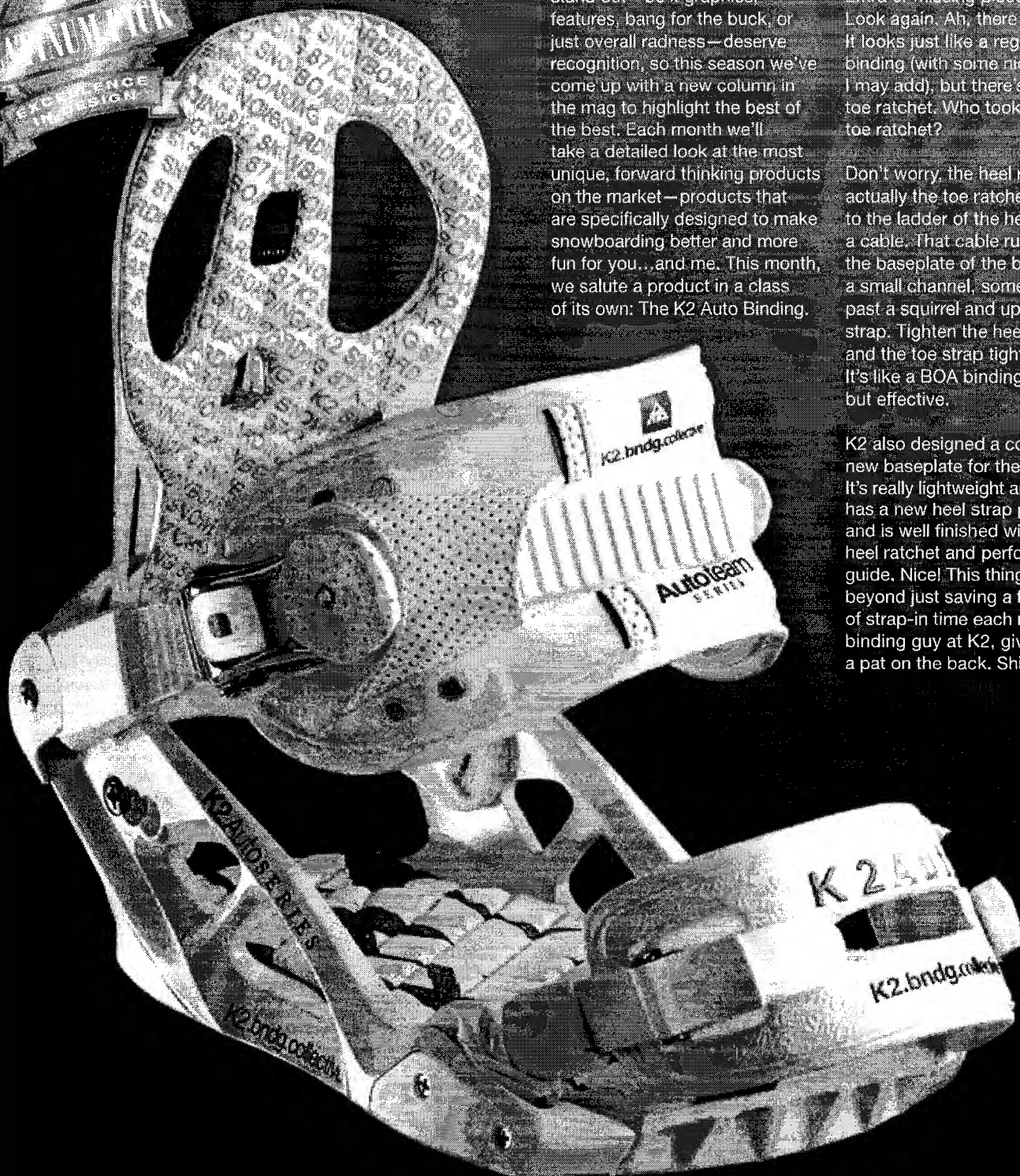
Photographed by  
Mike Basher

Every year, my job is to hunt through a teetering stack of catalogues to find the sweetest gear to grace the pages of SNOWBOARD. Products that stand out—be it graphics, features, bang for the buck, or just overall radness—deserve recognition, so this season we've come up with a new column in the mag to highlight the best of the best. Each month we'll take a detailed look at the most unique, forward thinking products on the market—products that are specifically designed to make snowboarding better and more fun for you...and me. This month, we salute a product in a class of its own: The K2 Auto Binding.

Remember step-ins? We'd rather forget them, and I'm sorry I conjured up the thought. Well, take a good look at the Auto. See anything weird? Extra or missing pieces? Look again. Ah, there it is. It looks just like a regular old binding (with some nice trim, I may add), but there's no toe ratchet. Who took the friggin' toe ratchet?

Don't worry, the heel ratchet is actually the toe ratchet. Attached to the ladder of the heel strap is a cable. That cable runs through the baseplate of the binding via a small channel, some pulleys, past a squirrel and up to the toe strap. Tighten the heel strap, and the toe strap tightens with it. It's like a BOA binding. Simple, but effective.

K2 also designed a completely new baseplate for the Auto. It's really lightweight and attractive, has a new heel strap pivot point and is well finished with a covered heel ratchet and perforated ladder guide. Nice! This thing's deluxe beyond just saving a few seconds of strap-in time each run. Hey, binding guy at K2, give yourself a pat on the back. Shitcheeah! ☺



# **EXHIBIT B**

Presse-Information \* Press Release \* Communiqué de presse \* Comunicato stampa\* Comunicado de prensa

No. 11 e

17 January 2008

## **The ispo Boardsports Award and Its Winners**

Introduced for ispo winter 07 with the goal of honoring the most innovative products of the Boardsport industry, the jury of experts also selected outstanding developments worthy of distinction this year. Two new categories were introduced to provide trade fair visitors with an even better overview of the most exciting products of the season 2008/09: Safety Gear and Kids' Products. The categories in 2008 are: Hardgoods, Outerwear/ Technical Apparel, Accessories, Safety Gear and the special award of the jury Kids' Products.

And here are the winners:

### **Category: Hardgoods**

#### **K2: Auto Ever Binding**

The AUTO EVER is an extremely light and progressive performance binding. This new K2 model provides choicest binding technology with AUTO technology and its airlock highback and marks the departure from toe ratcheting and traditional strapping adjustment.

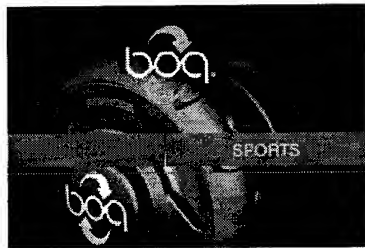
Jury reasons: K2 introduced a new binding system with AUTO technology last season. The Auto Ever binding combines this system with a further development: the "Airlock" highback. It is connected directly with the heelcup and consequently makes previous components for the strapping setting superfluous. As a result, the K2 engineers achieved optimum response with little weight as well as direct transfer of power.

### **Category: Outerwear/Technical Apparel**

#### **Zimtstern: Candid Yarndye Check**

The Candid Women's overalls are part of the Zimtstern BEAT collection. The functional material with a high degree of technological development convinces with its mixture of function and fashionable streetlook. With water-resistance of 10,000 mm and breathability of 10,000g/m<sup>2</sup>/24 h, the fabric is perfect for use in mountains with its high-tech PU coating on the material lining. In addition, the DWR finish keeps the material drier longer and protects it against oil- and water-based spots.

# EXHIBIT C



| HOW IT WORKS  
| PRODUCTS  
| 2006 CATALOG  
| PATENTS  
| FAQs

## THE BOA SYSTEM

## THE BOA SYSTEM



||| The Boa Lacing System provides a dramatic improvement over shoelaces for almost any kind of performance footwear or other products that require controlled closure.

- Tightness can be fine tuned by dialing in perfect closure force.
- The Elongated Lace Guides™ provide perfectly distributed closure force across the eyestays.
- Low friction and the Elongated Lace Guides™ combine to eliminate pressure points and provides a unique glove like fit.
- Closure is solid. It can't loosen up or come untied.
- No more loose shoelace ends. The special Boa laces wind up inside the reel.
- It is kind of fun. Boots and shoes slip on and off effortlessly and can be worn very loose or very tight. A quick turn of the Boa dial adjusts tightness instantly.

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